

Exhibit B



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

Refer to: Request Number **2018-00935-FOIA-OS**

May 10, 2018

Omar Gonzalez-Pagan
Senior Attorney
Lambda Legal
120 Wall Street, 19th Floor
New York, NY 10005-3919
Via email: ogonzalez-pagan@lambdalegal.org

Dear Mr. Gonzalez-Pagan:

This acknowledges receipt of your April 27, 2018, Freedom of Information Act (FOIA) request, submitted to the Department of Health and Human Services (HHS), FOI/Privacy Acts Division. Specifically, you requested:

- “1. Any records that mention, discuss, reference or relate to HHS's decision about whether to post, publish or enforce a rule or regulation, whether proposed or final, prohibiting discrimination on the basis of sex, sexual orientation, gender identity, gender expression, sex stereotypes, or transgender status in any part or aspect of any Medicare or Medicaid program, plan, policy, contract, accreditation process, provider, facility or service.**
- 2. Any records that mention, discuss, reference, or relate to HHS's decision about whether to post, publish, or enforce a rule or regulation, whether proposed or final, prohibiting discrimination on the basis of sex, sexual orientation, gender identity, gender expression, sex stereotypes, or transgender status against HHS employees, staff, contractors, or subcontractors, including with regards to access to restrooms or other sex-designated facilities.**
- 3. Any records that mention, discuss, reference, or relate to HHS's decision regarding whether to publish in the Federal Register, or any other manner, a rule or regulation signed prior to January 20, 2017, but that has since not been published.**
- 4. Any records that mention, discuss, reference, or relate to any proposed rule or regulation that was signed on January 19, 2017 but that has not been published in the Federal Register.**

Date Range for Records Search: June 01, 2016, through the date your search is conducted.”

You also requested a fee waiver. We received your request on **April 27, 2018**.

We have initiated a search to locate records falling within the scope of your request. If our searching units advise us that you have requested a voluminous amount of records that require extensive search and examination, my staff will contact you shortly to discuss your willingness to modify your request.

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The FOIA requires that we respond to your request within 20 working days of its receipt in this office. Please note the following unusual and exceptional circumstances that will impact our response time: (1) we will need to search for and collect records from components and/or field offices external to this office; and (2) because we receive a very heavy volume of FOIA requests, we will process your request in line with our established policy of "first in, first out" case processing. If either of these circumstances prevents our office from responding within the 20 working day timeframe, we will utilize a 10 working day extension to process your request, as permitted pursuant to the FOIA. This policy is consistent with court decisions regarding FOIA's time limits.

The law authorizes us to collect fees for responding to FOIA requests. However, because we are uncertain that applicable fees will exceed our minimum charge (\$25.00), we are not addressing your request for a fee waiver at this time. Nevertheless, if we determine there will be fees associated with processing your request, we will contact you at that time.

Please note the following:

If you believe that we should expedite the processing of your request because the requested records are needed in light of a compelling need; i.e., an imminent threat to the life and safety of an individual; an urgency to inform the public concerning government activity (provided you are a member of the media); a deadline in litigation; a deadline for commenting on proposed regulations; or other urgent matters, you must ask for expedited processing in writing and provide to this office as much relevant information as possible. In line with 5 U.S.C. § 552(a)(6)(E)(vi), you must demonstrate the compelling need in a statement certified to be true and correct to the best of your knowledge and belief. Attach any supporting documentation to your statement, including a court scheduling order if your request is based upon a litigation deadline. (Fax supporting documentation to the FOIA/PA Division at (202) 690-8320).

When submitting this additional information, please refer to the case number listed at the top left-hand corner of this letter, and send it to:

FOI/Privacy Acts Division
U.S. Department of Health and Human Services
200 Independence Avenue S.W.
Room 729H
Washington, DC 20201

If you are not satisfied with any aspect of the processing and handling of this request, you have the right to seek dispute resolution services from:

Michael Bell
HHS FOIA Public Liaison
U.S. Department of Health and Human Services
Office of the Assistant Secretary for Public Affairs
Room 729H
200 Independence Avenue, S.W.
Washington, DC 20201

Telephone: (202) 260-0793
E-mail: HHS_FOIA_Public_Liaison@hhs.gov

and/or:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road – OGIS
College Park, MD 20740-6001

Telephone: 202-741-5770
Toll-Free: 1-877-684-6448
E-mail: ogis@nara.gov
Fax: 202-741-5769

Any questions regarding the status of this request should be directed to our office at 202-690-7453.

Sincerely yours,

For 

Michael S. Marquis
Director
FOI/Privacy Acts Division